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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

) Case No.:
)
JAMIL LITTLEJOHN,	) COMPLAINT FOR DAMAGES
	) 1. VIOLATION OF THE FAIR
Plaintiff.	) DEBT COLLECTION PRACTICES
	) ACT, 15 U.S.C. §1692 ET. SEQ.;
v.	) 2. VIOLATION OF THE
	) ROSENTHAL FAIR DEBT
FINANCIAL CREDIT NETWORK,	) COLLECTION PRACTICES ACT,
INC.	) CAL. CIV. CODE §1788 ET. SEQ.;
	) 3. VIOLATION OF THE
Defendant.	) TELEPHONE CONSUMER
	) PROTECTION ACT 47 U.S.C . §
	) 227 ET. SEQ.
)
	) JURY TRIAL DEMANDED

COMPLAINT

JAMIL LITTLEJOHN ("Plaintiff"), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against FINANCIAL CREDIT NETWORK, INC. ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA"), the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788, *et. seq.* ("RFDCPA"), and the Telephone Consumer Protection Act 47 U.S.C. § 227, *et. seq.* ("TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Supplemental jurisdiction over all state law claims is proper pursuant to 28 U.S.C. § 1367 *et seq.*

4. Defendant conducts business in the State of California and as such, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Los Angeles, California.

1 7. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

2 8. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.
3 §1692a(3) and is a “debtor” as defined by Cal. Civ. Code §1788.2(h).
4

5 9. Defendant is a national debt collection company with its corporate
6 headquarters located at 1300 W. Main Street, Visalia, CA 93291.

7 10. Defendant is a “person” as that term is defined by 47 U.S.C. §
8 153(39).
9

10 11. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
11 1692a(6), and RFDCPA, Cal. Civ. Code §1788.2(c), and contacted Plaintiff in an
12 attempt to collect a debt.
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14 12. Defendant acted through its agents, employees, officers, members,
15 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
16 representatives, and insurers.
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19 **FACTUAL ALLEGATIONS**

20 13. Upon information and belief the debt at issue arose from consumer
21 transactions.
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23 14. Beginning in or around October 2014 and continuing through
24 October 2015, Defendant called Plaintiff on his cellular telephone seeking to
25 collect an alleged consumer debt.
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1 15. Upon information and belief, when contacting Plaintiff on his cellular
2 telephone, Defendant used an automatic telephone dialing system, automated
3 messages, and/or a prerecorded voice.
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5 16. When Plaintiff answered the telephone an automated message would
6 play before he was transferred to a live agent indicating that Defendant was trying
7 to collect a debt.
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9 17. Defendant's telephone calls to Plaintiff cellular telephone were not
10 made for "emergency purposes."
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12 18. During his initial communication with Defendant, Plaintiff tried to
13 determine what debt Defendant was trying to collect from him, but it was not clear
14 from the communication.

15 19. When Defendant described the debt, Plaintiff did not recognize the
16 debt and requested information about the debt from Defendant.
17

18 20. Plaintiff never received anything in writing from Defendant.

19 21. Despite providing no information about the debt to Plaintiff,
20 Defendant continued to call Plaintiff.

21 22. Frustrated by the lack of information and repeated nature of
22 Defendant's calls, in January 2015, Plaintiff told Defendant to stop calling and to
23 remove his number from their calling list.
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25 23. Defendant heard Plaintiff's request, but told him that he had to "pay
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1 this debt.”

2 24. Thereafter, Defendant continued to call.

3 25. However, once Defendant was aware its calls were unwanted any
4 further calls could only have been for the purpose of harassment.
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6 26. These calls were extremely inconvenient to Plaintiff as they would
7 often occur when he was at work.

8 27. Plaintiff worked two jobs, one on a production line at a bakery and
9 another job for a marketing company.
10

11 28. These calls were extremely disruptive, often causing him to stop what
12 he was doing at work and to take the call.

13 29. Defendant also placed calls to Plaintiff prior to 8:00am, which was
14 inconvenient to Plaintiff.
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16 30. Defendant never had consent from Plaintiff to call Plaintiff’s cellular
17 telephone number as Plaintiff has never done business with Defendant.
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19 31. Defendant’s actions as described herein were taken with the intent to
20 harass, abuse, and coerce payment from Plaintiff.
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COUNT I
DEFENDANT VIOLATED § 1692d OF THE FDCPA

32. A debt collector violates § 1692d by engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

33. Defendant violated § 1692d when it placed repeated and continuous harassing telephone calls to Plaintiff, when it called during times that were not convenient for Plaintiff, and when it continued calling Plaintiff's cellular telephone after he explicitly told Defendant to stop.

COUNT II
DEFENDANT VIOLATED § 1692d(5) OF THE FDCPA

34. A debt collector violates § 1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

35. Defendant violated § 1692d(5) when it placed repeated and continuous harassing telephone calls to Plaintiff.

COUNT III
DEFENDANT VIOLATED § 1692f OF THE FDCPA

36. A debt collector violates § 1692f by using unfair or unconscionable means to collect or attempt to collect any debt.

1 37. Defendant violated § 1692f when it continued to call Plaintiff without
2 his consent, when it disrupted him at work, and generally, when it used unfair and
3 unconscionable means to collect the alleged debt.
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6 **COUNT IV**
7 **DEFENDANT VIOLATED § 1692g OF THE FDCPA**

8 38. A debt collector violates § 1692g(a) if within five days after the initial
9 communication with a consumer, the debt collector fails to send the consumer a
10 written notice containing (1) the amount of the debt; (2) the name of the creditor to
11 whom the debt is owed; (3) a statement that unless the consumer, within thirty days
12 after receipt of the notice, disputes the validity of the debt, or any portion thereof,
13 the debt will be assumed to be valid by the debt collector; (4) a statement that if the
14 consumer notifies the debt collector in writing within the thirty-day period that the
15 debt, or any portion thereof, is disputed, the debt collector will obtain verification
16 of the debt or a copy of a judgment against the consumer and a copy of such
17 verification or judgment will be mailed to the consumer by the debt collector; and
18 (5) a statement that, upon the consumer's written request within the thirty-day
19 period, the debt collector will provide the consumer with the name and address of
20 the original creditor, if different from the current creditor.
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1 43. Defendant further violated §§ 1692c(a)(1) when it called Plaintiff
2 prior to 8:00am.

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5 **COUNT VI**
6 **DEFENDANT VIOLATED THE TCPA**

7 44. Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a
8 private cause of action in an appropriate court based on a violation of the TCPA or
9 the regulations prescribed under the TCPA to enjoin such violation.

10 45. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a
11 private cause of action in an appropriate court “to recover for actual monetary loss
12 from such a violation, or to receive \$500 in damages for each such violation
13 whichever is greater.”

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15 46. Despite the fact that Plaintiff never consented to Defendant placing
16 calls to him Defendant repeatedly placed non-emergency calls to Plaintiff’s
17 cellular telephone.

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19 47. Based upon the conduct of Defendant, Plaintiff avers that the
20 enhancement of damages provided for by the TCPA allowing for Plaintiff to
21 recover up to \$1,500 per call/violation be applied to calls placed.

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23 48. Defendant’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by
24 placing repeated calls using an automatic telephone dialing system to Plaintiff’s
25 cellular telephone without prior express consent.

COUNT VII
DEFENDANT VIOLATED THE RFDCPA

49. A debt collector violates section 1788.17 of the California Civil Code by failing to comply with sections 1692b through 1692j of the FDCPA.

50. Defendant violated section 1788.17 of the California Civil Code when it violated the FDCPA for the reasons set forth in this Complaint.

WHEREFORE, Plaintiff, JAMIL LITTLEJOHN, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3);
- d. All actual damages, statutory damages, reasonable attorney's fees and costs, and any other litigation costs incurred by Plaintiff pursuant to the RFDCPA at Cal. Civ. Code § 1788.17;
- e. Statutory damages of \$500.00 per telephone call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B);

- 1 f. Statutory damages of up to \$1,500 for each call in violation of the
2 TCPA, pursuant to 47 U.S.C. §§ 227(c)(5)(B) and 227(c)(5)(C),
3 which permits the Court in its discretion to award such damages if it
4 finds that Defendant willfully or knowingly violated the TCPA; and
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6 g. Any other relief deemed appropriate by this Honorable Court.

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9 **DEMAND FOR JURY TRIAL**

10 PLEASE TAKE NOTICE that Plaintiff, JAMIL LITTLEJOHN, demands a
11 jury trial in this case.

12
13 RESPECTFULLY SUBMITTED,

14 KIMMEL & SILVERMAN, P.C..

15 DATED: 12-21-15

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